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FEDERAL MARITIME COMMISSION

46 CFR PARTS 550 AND 580

[DOCKET NO. 92-28]

ELIMINATION OF CERTAIN REGULATORY PROVISIONS

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its regulations governing the publishing, filing and posting of carrier tariffs to eliminate certain outdated or unnecessary regulatory provisions.

DATE: Comments due [insert date 30 days after date of publication in the Federal Register]. Comments must be received at the Commission by the due date; the date of mailing will not be accepted as the date of filing in this proceeding.

ADDRESS: Comments (original and 15 copies) are to be submitted to:

Joseph C. Polking, Secretary
Federal Maritime Commission
1100 L Street, N.W.
Washington, DC 20573
(202) 523-5725

FOR FURTHER INFORMATION CONTACT:

Bryant L. VanBrakle, Director
Bureau of Tariffs, Certification and Licensing
Federal Maritime Commission
1100 L Street, N.W.
Washington, DC 20573
(202) 523-5796

SUPPLEMENTARY INFORMATION:

Rules and regulations governing the publication and filing of tariffs for the waterborne transportation of property and passengers performed by common carriers in the domestic offshore

trades, as required by the Shipping Act, 1916, 46 U.S.C. app. 801 et seq., and the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843 et seq., are set forth in 46 CFR Part 550. Similarly, rules and regulations governing the publication and filing of tariffs for the transportation of property performed by common carriers in the U.S./foreign trades, as required by the Shipping Act of 1984, 46 U.S.C. app. 1701 et seq., are set forth in 46 CFR Part 580.

A review of Parts 550 and 580 disclosed certain provisions which no longer serve any regulatory purpose or whose purpose has expired.

Section 550.1(a)(9), 46 CFR § 550.1(a)(9), provides for the exemption from the tariff filing requirements applicable to the domestic offshore trades for transportation by Puget Sound Tug & Barge Company of general cargo in non-self-propelled barges from Seattle, Washington to the vicinity of Kivalina, Alaska, during calendar years 1988 and 1989. This exemption has expired. Similarly, section 580.12(c), 46 CFR § 580.12(c), which provides for the continuation of certain time/volume rate contracts entered into prior to June 18, 1984, until July 17, 1985, or the term specified in the contract, whichever occurs first, has expired.

The Federal Maritime Commission ("Commission") also proposes to amend section 550.5(b)(8)(xiv), 46 C.F.R. § 550.5(b)(8)(xiv), and delete section 550.8, 46 CFR § 550.8.

Section 550.5(b)(8)(xiv) refers to the Automobile Manufacturers' Measurements guide, the publication of which was indefinitely suspended by the Commission on July 15, 1987 (52 FR 26479). Since the Commission suspended its publication, the Commission has not received any complaints or requests to reinstitute publication of the guide. Consequently, the reference to this publication is deleted.

Section 550.8 governs the filing of tariffs applicable to through intermodal transportation in the United States domestic offshore trades. It has been determined that joint rail/water and motor/water rates are subject to the jurisdiction of the Interstate Commerce Commission. See Puerto Rico Maritime Shipping Authority v. ICC, 645 F.2d 1102 (D.C. Cir. 1981); Trailer Marine Transportation Co. v. FMC, 602 F.2d 329 (D.C. Cir. 1979).

In view of the above, the Commission proposes the amendment of 46 CFR § 550.5(b)(8)(xiv) and the removal of 46 C.F.R. § 550.8. If these proposals are adopted, the Commission will ensure that new Part 514, the Automated Tariff Filing and Information system rules, is appropriately conformed.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the proposed rule in terms of that Order and determined that the proposed rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

- (1) an annual effect on the economy of \$100 million or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) significant adverse effects on competition, employment, investment, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in the domestic or export markets.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Federal Maritime Commission certifies that the proposed rule will not, if adopted, have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

This proposed rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of subjects:

46 CFR Part 550: Maritime carriers; Reporting and recordkeeping requirements.

46 CFR Part 580: Cargo; Cargo vessels; Freight; Exports; Harbors; Imports; Maritime carriers, Rates, Reporting and recordkeeping requirements; Surety bonds; Water carriers; Water transportation.

Therefore, pursuant to 5 U.S.C. 553; sections 18, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 817, 833a and 841a; section 2 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844; and sections 8, 10, 11, 12, 13, 17 and 23 of the Shipping Act of 1984, 46 U.S.C. app. 1707, 1709, 1710, 1711, 1712, 1716 and 1722; Title 46, Code of Federal Regulations, is proposed to be amended as follows:

PART 550 -- [Amended]

1. The authority citation for Part 550 continues to read as follows:

AUTHORITY: 5 U.S.C. 553; 46 U.S.C. app. 812, 814, 815, 817, 820, 833a, 841a, 843, 844, 845, 854a, 845b, and 847.

2. Section 550.1(a)(9) is removed.

3. Section 550.5(b)(8)(xiv)(A) introductory text is revised to read as follows:

§ 550.5 Contents of tariffs.

* * * * *

(b) * * *

(8) * * *

(xiv) * * *

(A) Automobiles shall be rated by measure. The cubic measurements for the five most recent model years will be that prescribed by the manufacturer of the particular make and model as shown on pages --- to --- herein.

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4. The provisions contained in section 550.8 are removed and that section is marked [Reserved].

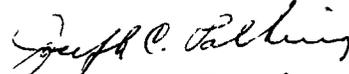
PART 580 -- [Amended]

1. The authority citation for Part 580 continues to read as follows:

AUTHORITY: 5 U.S.C. 553; 46 U.S.C. app. 1702-1705, 1707, 1709, 1710-1712, 1714-1716, 1718, and 1722.

2. Section 580.12(c) is removed.

By the Commission.


Joseph C. Polking
Secretary